STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-865

January 18, 2002

PUBLIC UTILITIES COMMISSION
Re: Rulemaking to Amend
Chapter 204, Basic-Service Calling Area

NOTICE OF
RULEMAKING

WELCH, Chairman; DIAMOND and NUGENT, Commissioners

I. SUMMARY

The Commission is initiating this rulemaking to amend Chapter 204 (65-407 CMR 204), Basic-Service Calling Area (BSCA). Simultaneously, we close the Inquiry in Docket Number 2000-752. The BSCA rule establishes the criteria and the procedures that the Commission and local exchange carriers who provide basic telephone service in Maine will follow to establish and change basic-service calling areas. We recently made minor amendments to this rule to comply with 35-A M.R.S.A. §7303-A. We now are proposing more comprehensive changes. These include adding a third BSCA calling area option – Premium Plus, which will consist of the current Economy and Premium calling areas, plus all contiguous exchanges and a service center, if one is not included in the Economy or Premium options.[1] As is always the case with the expansion of local calling areas, there are lost toll revenues that must be addressed,

[1] A Service Center is a town or city designated by the Maine State Planning Office (SPO) as a primary or secondary Service Center in its report, "Reviving Service Centers," Vol 1, August 1998. Service Centers are job centers, retail centers, and offer an array of social, cultural, health and financial services.

normally through increases in local rates. We discuss these issues in greater detail in Part II below.

Other proposed changes will eliminate the obligation imposed on LECs to do automatic periodic calling-volume analyses, specify that the BSCA rule applies only to eligible telecommunications carriers, simplify the customer waiver process and reformat the rule to be more consistent with other PUC rules.

In addition to comments on the proposed rule itself, we are also asking for specific comment on a number of issues that are not reflected in the proposed rule. These include reforms to the manner in which municipal calling is provided; the need for local calling within school administrative units; the possibility of other specialized calling area options and pricing; and the elimination of the current "automatic" periodic calling area study and expansion process. We will hold a public hearing and solicit comments and suggestions. We also expect to conduct a technical conference shortly after this notice is issued, and prior to the hearing.

II. BACKGROUND

Until fairly recently, Maine's telephone rates were characterized by relatively low fixed monthly rates, wide variation in the geographic and population size of local calling areas, and extremely high in-state toll rates. In response to a pattern of customer complaints concerning the limitations of existing basic-service calling areas, exacerbated by high toll rates, the Commission adopted Chapter 204, effective June 25, 1994. *See Docket No. 93-170*, *Order Adopting Rule and Statement of Factual and Policy Basis, Basic Service Calling Areas (Chapter 204)*(May 19, 1994). The existing Chapter 204 requires all local exchange carriers (LECs) in Maine to analyze residential toll traffic data in each exchange every five years to determine if any exchanges meet the Rule's threshold requirements for expansion of local calling areas. Under the Rule, an exchange will automatically be added to another exchange's calling area if 50% of the exchange's residential customers make four or more interexchange (toll) calls to the target exchange during a test month. The current Rule also contains waiver provisions. LECs may request waivers from the Rule's automatic BSCA expansion requirements. Customers may request waivers from the Rule's minimum calling requirements, seeking the expansion of BSCAs that do not meet the requirements. Since its adoption, Chapter 204 has alleviated many calling area problems. Thirty-eight home or "initiating" exchanges received expanded calling areas because of the 1994 toll traffic studies; four exchanges received expanded calling areas as a result of the 1999 studies.

Notwithstanding the expansions described above, the Commission continues to receive requests for calling area expansions. Because and notwithstanding the fact that the cost to customers of making in-state toll calls has fallen dramatically in the wake of the enactment of 35-A MRSA §7101-B, we are concerned that current Chapter 204 does not sufficiently address the expanding calling area needs of local telephone customers, we initiated an Inquiry. *See Inquiry into Revisions to The Basic Service Calling Area Rule, Chapter 204*, Notice of Inquiry, Docket No. 2000-752, (September

12, 2000) (NOI). The NOI identified four categories of calling area problems not sufficiently remedied by the existing rule.

The first category is that in some exchanges, the calling patterns and needs of a pocket area of the exchange differ from the rest of the exchange or there are split communities of interest within the exchange. Those problems are only partially resolved by the availability of Municipal Calling.

The second problem concerns the school community, particularly in rural areas, where schooling is provided by School Administrative Districts (SADs) or School Unions that include a large number of municipalities. Customers complain that they cannot call or be called from the school their children attend. Students complain that they cannot call each other for study and social matters without making a toll call.

The third problem area is a perception that there is a lack of "parity" within certain areas. The growth of calling areas both before and under the BSCA rule has resulted in "hub and spoke" calling areas under which small communities surrounding a large community (e.g., Bangor, Augusta and Lewiston-Auburn) can call the large community but cannot call each other, particularly those nearby.

The fourth problem is single-exchange calling areas. The PUC reported to the Joint Legislative Utilities and Energy Committee (U&E Committee) that 17 exchanges in Maine do not have flat-rated, local calling to any other exchange. In response, the

Legislature enacted 35-A M.R.S.A. §7303-A to address single-exchange calling areas, and the Commission recently amended Chapter 204 to comply with that section.[2] Those amendments included the definition of "Single Exchange Area," a waiver mechanism for 50 or more customers in a single exchange area, and standards for evaluating customer requested waivers.

The NOI also addressed the issue of including all contiguous exchanges in each home exchange's BSCA. The NOI did not specifically identify the inability to call all contiguous exchanges as a "problem," but instead suggested that including all contiguous exchanges in the BSCA might partially solve the four problems discussed above. Many customers have stated that it is a problem for them that they cannot call, without a toll charge, various (or, in "single exchange" BSCAs, any) contiguous exchanges. This inability is often most serious for persons who live near an exchange boundary and who incur toll charges when they call neighbors in a contiguous exchange.[3] We recognize that the proposed changes may well cause the Premium Plus monthly rate to be substantially higher that current Economy or Premium option monthly rates. This may be the trade-off for converting all of the toll routes (including contiguous exchanges) that we have proposed to include in the Premium Plus option to part of the BSCA. We request comment on the level of the Premium Plus monthly rate, its impact on demand and whether the Premium Plus rate should attempt to recover all

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[2] Docket No. 2001-488, *Order Adopting Amended Rule* (October 4, 2001).

[3] A bill submitted in the Second Session of the 120th Maine Legislature proposes to address this situation. LD 1981, An Act to Prohibit the Charging of Tolls for Phone Calls Made Between Contiguous Communities.

cost and revenue impacts. As a general rule, we believe that those customers that cause a cost increase or a revenue loss (in this case, the customers who would choose the Premium Plus option) should pay for that revenue loss. However, we also may not want a result in which one rate (Premium Plus) is so substantially higher than others that the option is unaffordable. If that were the case, it might be necessary to increase Economy or Premium rates.[4]

A Procedural History and a Discussion of the Comments filed in the Inquiry is included in Appendix A to this Notice.

III. PROPOSED AMENDMENTS

This Part of the NOR contains descriptions of the major proposed changes and areas on which we would like specific comment. We are also proposing many minor changes – wording, formatting, arrangement of text – and comments are welcome on those as well.

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[4] There may be an independent need to increase the Economy and Premium rates because the whole BSCA will increase for all three options as a result of the Premium Plus option, and, as discussed below, we have proposed a 5-cent per minute rate for calls within the BSCA but outside the flat-rate area of the particular option. Because calls to those areas prior to implementation of the Premium Plus option would have been toll calls at an average revenue per minute in excess of the local 5 cent rate we have proposed, we may need to consider whether to increase Economy and Premium rates to make up for any net losses in revenues.

A. Summary; Section 1

We propose that the requirements of the BSCA rule apply only to eligible telecommunications carriers (ETCs). While there are competitive LECs (CLEC) in Maine, none of them presently are ETCs, and the vast majority of telephone customers, especially residential customers, receive telephone service from the incumbent local exchange carrier (ILEC). In all cases, the ILEC has been designated by the Commission as an ETC. Since ETCs serve as carriers of last resort, it is reasonable to require them to offer calling areas established pursuant to this rule. Excluding non-ETCs (at this time all CLECs) from these requirements is consistent with the move to competitive markets, as the calling areas can be a feature on which carriers compete. If a CLEC is designated as an ETC in the future, the rule proposes that it will be required to provide the same BSCAs, BSCA calling options and municipal calling as ILECs. [5]

B. Section 2. Definitions

2(A). “April 2002 Amendments.” This date depends on the final effective date of the revisions in this rulemaking and makes clear the “dividing line” between some provisions in the current rule and certain provisions in the amended rule. This is necessary, for example, when the Rule’s definition for Economy Calling Area refers to the calling area that existed immediately before the April 2002 amendments.

[5] We proposed similar dichotomy between ETCs and non-ETCs in Docket 2001-852, Notice of Rulemaking, Standards for Billing, Credit and Collection, Termination of Service, and Customer Information for Eligible, Non-Eligible, and Interexchange Carriers (Chapters 290, 291, and 292).

2(B). "Basic-Service Calling Area." The proposed definition includes the third calling area option, Premium-Plus, and that calling within the BSCA is either flat or measured at a per-minute rate (versus the per-call rate now in place). The term "plan" in the current rule has been changed to "option" throughout the proposed rule to better reflect customer's ability to make choices.

2(D). "Contiguous Exchange." This proposed definition is new. It excludes exchanges that are contiguous only across a body of water where there are no direct vehicular connections (i.e., a bridge or causeway). Examples of excluded exchanges include exchanges whose boundaries are contiguous only in the middle of Sebago Lake or in waterways between the peninsulas of the mid-coast.

2(F). "Economy Calling Option." We propose that the Economy calling option will remain the same as in the current version of the rule. In addition, the Economy option will be the default after the effective date of the amendments proposed in this rulemaking, for those customers that currently subscribe to the Economy option. See section 4(B)(3).

2(G). "Eligible Telecommunications Carrier (ETC)." This new definition is necessary because we propose to amend the Rule so that it will apply only to local exchange carriers that are "eligible telecommunications carriers" designated pursuant to provisions in the federal Telecommunications Act of 1996 (47 U.S.C. § 214(e)).

2(H). “Exchange.” We propose to delete the last sentence of the present definition (relating to the rating of interexchange calls) because it is no longer needed in the Rule.

2(I). “Home Exchange.” The addition of the third sentence makes clear the “home exchange” is the general term for the exchange from which a customer is served, and that calling to other exchanges in the BSCA is available by choosing the various calling options available in the home exchange.

2(J). “Initiating Exchange.” We propose to narrow this definition, proposing that it apply only to requests to modify the BSCA pursuant to Section 6, and to make clear that an initiating exchange is a subset of the more general “home exchange.”

2(K). “Local Exchange Carrier.” This definition makes clear that this Chapter applies only to those carriers providing local exchange service that are designated by the Commission as “eligible telecommunications carriers” (ETCs).

2(L). “Municipal Calling.” The municipal calling area requirement in the current Rule allows customers to call any telephone in their municipality on a toll-free basis. This function is currently provided to all customers as part of their local service.

Over the past few years, the Commission has been made aware of various problems with the existing municipal calling. We discuss these problems in Part III(G) below.

2(M). "Premium Calling Option." The proposed Premium calling option remains the same as in the current version of the rule. For home exchanges where all three options are identical, the single option will be designated Premium. In addition, after the effective date of the April 2002 amendments, the Premium option will be the default for those customers that currently subscribe to the Premium option.

2(N). "Premium Plus Calling Option." We propose the Premium Plus Calling option as a new third BSCA option. Where available, it would expand the size of a home exchange's BSCA.[6] Under the Premium Plus option, calls to all exchanges within the BSCA would be included in the customer's flat rate. As provided in the definition of "Basic Service Calling Area," all exchanges that are included in the flat-rate calling for the Premium Plus option are part of the BSCA regardless of which option a customer chooses. For the Economy and Premium options, calls to some exchanges in the BSCA are included in the flat rate, and calls to other exchanges in the BSCA are charged a per-minute rate.

As proposed, the Premium Plus option would include all exchanges in the present BSCA (i.e., those for which a flat rate applies under the present Premium

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[6] As provided in proposed section 3(B), if the Premium Plus area is no greater than the existing Premium area, it will not be available as a distinct option in that exchange.

option) and would add: exchanges contiguous to the Home exchange; exchanges containing a Service Center (if not already included in the BSCA); and any exchanges that are "skipped-over" (see definition in 2(T)).

The definition contained in the proposed rule does not include exchanges that provide service within the same School Administrative Unit (SAU) as the SAU(s) that serves the home exchange. We address these issues in Part III(H), below.

The inclusion of certain categories of exchanges in the Premium Plus option in the proposed rule, and the exclusion of SAUs from any option, should not be understood as an indication of the ultimate outcome of these categories. We especially seek comment on whether we should continue to include "skipped-over" exchanges, whether contiguous exchanges should be included in the Premium Plus or some other option, and comment concerning the somewhat complex issues involved in whether to include school administrative units (SAUs). *See* discussions below.

2(Q). "School Administrative Unit." School administrative units (SAUs) are described in 20-A M.R.S.A. §1(26), and include: School Administrative Districts (SADs), Community School Districts (CSDs), School Unions, and Municipal Schools, among others. We include this proposed definition because we propose to include SAUs as a factor to be considered in the "community of interest" standards in the petition process contained in Section 6 and because, depending on the information we receive on this issue, we may include SAUs in the final definition of the Premium Plus option or as a separate option. We exclude "municipal schools" from the definition because they are subsumed in municipal calling. We exclude School Unions because they are unions of SADs or other school entities solely for administrative purposes.

2(R). "Service Center." Many customers providing comments in the NOI stated that they wished to make local calls to the area where residents of their community work, shop, and obtain medical or social services. The best definition of that concept is the State Planning Office report, "Reviving Service Centers," Vol 1, August 1998. Service Centers are job centers, retail centers, and offer an array of social, cultural, health and financial services. The report may be obtained from the State Planning Office or online at http://www.state.me.us/spo/cpip/planning/screport.htm. We are proposing to include the exchange containing the nearest Primary or Secondary Service Center in the Premium-Plus option if one is not already included in one of the lesser options.

C. Section 3, Procedures for Determining and Implementing Basic-Service Calling Area Options.

We propose to eliminate the periodic traffic analyses and "automatic" addition of routes to Premium calling options. Although this method added a number of new exchanges to existing BSCAs in the first year of the Rule, it added only four exchanges in the second round of traffic analyses in the fifth year. It is clear that the present standard, based on traffic volumes, does not address the large number and wide variety of customer complaints about claimed calling area inadequacies that we continue to receive. The standard has never adequately addressed exchanges that have split communities of interest. If customers' interest in calling outside their own exchange is split between two communities, the calling volumes to any one exchange are unlikely to meet the standard, even if the total calling to the two exchanges combined would exceed the standard. Calling volumes to most contiguous exchanges that are not presently included in BSCAs are quite low, but the interest (as expressed in comments in the Inquiry) in calling contiguous exchanges is high, thereby possibly indicating split communities of interest, and an aggregate high interest.

We note that it is generally less costly to add an additional exchange to a BSCA when the calling volume is low, because toll revenue losses will be smaller, although adding a number of small volume exchanges obviously increases the toll loss. Providing additional BSCA exchanges is also made easier because retail toll rates are now much lower than they were when we first adopted this Chapter, thereby reducing the amount of revenue loss.

Although we propose to eliminate the mandatory periodic requirement for traffic analyses, we do propose to include a modified calling volume standard in the petition process contained in Section 6.

D. Deletions of Parts IV and V of Present Rule

We propose to delete Part IV of the present Rule (Optional Calling Plans for Residential Customers) and its related implementation provision in Part V(C)(2).

That provision refers to the Circle Calling Plan, which was a discount interexchange (toll) plan for exchanges within 30 miles of the home exchange. In November 2000, we granted ILECs a waiver from this requirement because the rates for statewide calling under Pine Tree State Calling were more favorable than the Circle Calling rates for toll calling within 30 miles. The provision is therefore presently obsolete. We also propose to delete the section because we believe that concerns about calling within the areas formerly covered by Circle Calling are best addressed through the modification of BSCAs rather than through optional toll calling plans.

We also propose to delete Part V (Basic Coin Rate for Pay Telephones) and its related implementation provision in section VI(C)(3). The 1996 TelAct deregulated and preempted state regulation of local coin payphone rates. This provision required a flat local coin rate to apply within all exchanges of the BSCA (all exchanges included in the Premium option). We included this provision in the original version of the rule because toll rates were much higher six years ago. This section was intended to provide students who could only use the pay telephone at school with a reasonable means to call home without incurring high operator fees and toll charges. There are many alternatives today, including cellular phones and pre-paid calling cards. Although we propose to delete the provision, we note that the BSCA for an exchange continues to define the minimum area in which local rates apply for pay phones.

E. <u>Section 4</u>

1. Customer Notice

Our proposal for future BSCA calling options leaves the Economy and Premium options unchanged. Therefore, we propose that the default calling area options for customers after the implementation of the April 2002, amendments be the customer's current option. Thus, customers enrolled in the Economy option will keep this option as their default option, and customers enrolled in the Premium option will keep this option as their default option.

We propose throughout sections 4 and 5 to change the various time periods for actions by customers and LECs to whole week multiples (56 days or eight weeks rather than 60 days, and, in one instance, 35 days) because whole weeks are easier to easier to calculate on a calendar. The Supreme Judicial Court recently adopted this concept in the Maine Rules of Appellate Procedures.

E. Section 4(E). Telephone Directories.

We have proposed changes in the wording of this provision because the present language could be read to require LECs to distribute telephone directories only once. We propose to make the requirement an annual one. Generally, directories are published annually. At present, the provision states that directories should be provided for the "premium calling area," i.e., the full extent of present BSCAs. The proposed revision states that directories should be provided without charge for the customer's BSCA. Some exchanges will see an increase in their BSCAs because of our proposal to implement the Premium Plus calling option. Alternatively, we could require annual distribution of directories covering the flat-rate exchanges in the Economy and/or Premium options and to allow customers to request that they annually receive directories covering the remaining exchanges in the BSCA. Verizon presently will not accept a "standing order" to provide a directory for areas within the BSCA that are outside the home exchange.

We are concerned that customers may be unaware of the availability of the additional directories and will incur additional directory assistance charges. At the time that Verizon's predecessor (New England Telephone & Telegraph Company) implemented directory assistance charges, the Commission required it to provide free directories on request.[7] Although the current version of the rule requires a directory for each exchange in the customer's Premium calling area, Verizon received a waiver from that requirement in 1996, stating that the expense and additional paper in the waste stream would be substantial. Verizon stated that all customers were advised of the availability of additional free directories for their BSCA. We are not sure whether notice has been provided beyond a general statement in the front of directories that directories may be obtained by calling a specified phone number. We also are not certain that such limited notice is effective.

[7] *See* the history of this requirement in *Maine Public Utilities Commission, Investigation into Verizon Maine's Alternative Form of Regulation*, Docket No. 99-851, Order (Part 2) at 26 n. 12 (June 25, 2001)

Finally, we request comment about the present coverage of directories. Requiring customers to obtain and use multiple directories for their BSCA may be confusing and burdensome. Commenters should address whether the LECs should be required to provide customers with a single directory that includes the listings for all exchanges included in the BSCA of the customer's home exchange.

F. Section 5. Rates for Basic Service Calling Area Options.

Section 5 is former Part VII, with some proposed amendments. Subsection A states that rates for existing options (Economy and Premium) should be unchanged following the April 2002 amendments, unless the Commission orders otherwise. Changes to the Economy or Premium rates should only result from rate group migration that occurs because of an increase in the size of the BSCA due to the establishment of the Premium-Plus option. If, pursuant to this rulemaking, we decide that certain additions to BSCAs that we have proposed should be included in some option other than Premium Plus, then it may well be necessary to modify the rates for "existing" options.

The phrase "Unless otherwise ordered by the Commission " is to accommodate the possibility, after a final rate is established for the Premium Plus option, that there may be a need to establish a more consistent rate relationship for all three options, depending, for example, on the number of exchanges available under the flat rate for each option.

Subsection B establishes that the rate guideline for any new or modified option is to recover the costs and revenue shortfall. The rule permits, but does not require, the Commission to allow a LEC to recover all costs and revenue shortfalls based on the amounts established by the tracking account. *See New England Telephone & Telegraph Co., d/b/a NYNEX, Request for Recovery of BSCA Shortfall Through an Increase in Basic Rates,* Docket No. 96-753 Order at 304 (April 15, 1997). In particular, that Order suggests that the Commission may exercise its discretion depending on whether there has been a recent review of a company's earnings. We also ask for comment on the need for the prioritization of recovery shown in subsections 1(a) through 1(d). If the new rates for Premium Plus should attempt to recover the costs and revenue losses resulting from the change and we continue to use the tracking account mechanism, do we need subsections 1(b) and 1(c)?

Subsection C states that calls beyond the flat-rate areas of the Economy or Premium calling area, respectively, but within the BSCA (i.e., the area defined by the flat-rate area of the Premium Plus, or largest, option) are charged a measured rate. Under the present Rule, these calls are priced at 25 cents per *call*. We propose to change to a per-*minute* rate for two reasons. First, for very short duration calls, 25 cents is over-priced in comparison to presently available retail toll rates.

Second, for much longer calls (e.g., long connections to the internet), 25 cents is significantly under-priced.

As a general principle, we believe that the per-minute rate should be priced similarly to the best available retail toll rates, because, absent the full size of the BSCA (which is equal to the flat-rate area of the largest option and which, under the proposals in this rule, will expand), customers who choose the lesser options would be able to make retail toll calls to the areas within the BSCA beyond their own flat-rate areas. We have selected five cents per minute as the proposed rate for these per-minute intra-BSCA calls. Similar rates are available under many calling plans offered by competitive IXCs, and it is difficult to justify a higher rate for these calls than rates generally available for retail toll calls beyond the BSCA. Because we expect that the retail toll market may continue its downward trend in prices, to the Commission will review this rate annually in light of future competitive conditions.

Section 5(D) is present Part VII(A), essentially unchanged, aside from the proposed change in the time period for filing the tracking report, discussed above. It establishes a tracking mechanism for establishing the rate for any new or modified option (including the Premium Plus option proposed in this rulemaking).

G. Municipal Calling

Municipal Calling is the ability to call, without toll charges, all of the lines in one's home municipality, regardless of the fact that some of these calls are to exchanges that otherwise would require a toll charge, i.e., they are outside the caller's BSCA. Until we adopted the original version of this Chapter in 1994, municipal calling was recognized only in LEC tariffs. The original (and present) definitions of "Economy Calling Area" and "Municipal Calling Service" stated that it is Commission "policy" that municipal calling be provided as part of the Economy option.

It is more accurate, however, to state that all customers must receive municipal calling as part of their basic rate or their local service, regardless of which BSCA option they choose. We have proposed to amend the definitions and other provisions in the Rule to make this clear. Municipal calling is in fact only partly provided as part of a customer's BSCA, i.e., when the BSCA includes a portion of a municipality that is the same as one that is included in the home exchange. However, if a BSCA does not include an exchange that includes some portion of a municipality that is served in part by in the home exchange, then municipal calling is not provided by the BSCA. Instead, it is provided by "de-billing" interexchange (toll) calls, as described below.

In our discussion of the definition of "Municipal Calling," we noted that there are three problems with the present system of providing Municipal Calling. Under Municipal Calling, customers may call all phone numbers located in their town or city without incurring a toll charge regardless of the exchange from where service is provided. If one of those municipal numbers is located in an the exchange that is not otherwise included in the BSCA of the caller's home exchange, the call is actually an interexchange call but is then "de-billed." To de-bill, it is necessary to code all phone numbers with a municipal code and then, during the billing cycle, remove any toll charges for calls between numbers having the same municipal code. Municipal calling is provided only by incumbent LECs in their capacities as interexchange carriers. IXCs that are not incumbent LECs have claimed to the Commission that it would be impossible for their billing systems to accommodate municipal calling.

The first problem is that, if customers choose an intrastate interexchange carrier other than Verizon (or their own ILEC, in the case of the two independent ILECs that provide interexchange service) as their presubscribed IXC, they are not able to dial only seven digits to obtain that portion of municipal calling that is not provided as part of the BSCA. Because non-ILEC IXCs do not have the ability to "de-bill" interexchange calls within the same municipality, a customer who is presubscribed to a non-ILEC IXC, and who dials only seven digits, will be billed a toll charge, even though the terminating number is in the same municipality as the caller (but in an exchange that is not included in the caller's BSCA). To obtain municipal calling, customers who presubscribe to an IXC that is not their LEC must dial "1010" plus the Verizon carrier code, and then the seven-digit number of the customer they are calling. Providing this information to customers has been difficult.

The second problem is that, because municipal traffic is interexchange (toll) that is "de-billed," Verizon may in some instances pay access charges to the independent LECs for non-revenue producing municipal calling service (MCS) traffic. Moreover, as with BSCA, ILECs lose toll revenue because of municipal calling. The third problem is that in some cases customers are incorrectly charged for MCS calls because the municipal code for the calling or called number is either missing or incorrect.

We request comment on a possible revision to the method for providing municipal calling that will address at least the first two of the problems described above. If we adopt this method in this rulemaking, we will have to add a new provision to the Rule.

Under the revised method, all calling within a municipality would be local rather than interexchange (toll), and would therefore be provided by the LECs rather than by IXCs. As noted above, a significant portion of municipal calling is provided by LECs (in their capacity as LECs rather than as IXCs) because it is provided as part of the BSCA.[8] Under the revised method, *all* exchanges that serve *any* part of the same municipality would be considered "local" calls. We do not propose, however, that all calls to *all places* within those exchanges would be "free," i.e., included in the customer's flat-rate (unless the exchange was otherwise included in one of the customer's BSCA options.) Instead, calls to portions of those exchanges that are

[8] Even if the customer chooses a "smaller" BSCA calling option, e.g., Economy, that does not include an exchange serving part of the customer's municipality as part of the customer's flat rate, the call is nevertheless local. Normally, pursuant to Part V(B) of the present Rule, the call would be billed at a per-call local rate. However, if the call is to a portion of the non-home exchange that serves part of the customer's municipality, that local per-call charge should not apply, i.e., it should be "de-billed" in the same manner as toll calls to exchanges that serve parts of the customer's municipality that are not part of the BSCA.

outside of the caller's municipality (but that are not part of any BSCA option, including Premium Plus) would be charged the same per-minute local rate that we have proposed for calls that are within the BSCA but outside the flat-rate area of the BSCA option selected by the customer.[9]

The alternative -- including the *whole* of any exchange that serves part of a customer's municipality in the customer's flat-rate calling -- would, in some areas, create extremely large flat-rate calling areas.[10] A significant number of municipalities are served by several exchanges. Often, however, many of these exchanges serve only a small corner or edge of the municipality, are not contiguous with each other, and rarely have any significant community of interest with each other. Nevertheless, if we required flat-rate calling to the whole of these exchanges (rather than only the same-municipality part), all of the customers in one of these exchanges would be able call all of the customers in another of these exchanges, even though only a few of the customers in

[9] As discussed above in Part III(F) above, we propose a rate of five cents per minute.

[10] An example would be the municipality of Durham. Most of Durham is served by the Lisbon Falls exchange; however, five other exchanges also serve parts of Durham: Lewiston, New Gloucester, Pownal, Freeport, Brunswick and Lisbon Falls. For all customers in the town of Durham to call all other customers in the town under a flat rate on a BSCA basis, the BSCAs of each of the six exchanges would have to include all of the other five exchanges that serve any potion of the town. In some cases the exchanges are contiguous (all are contiguous to Lisbon Falls, for example), and either they are already included in each other's BSCAs or would be under the Premium Plus option. However, several exchanges are not only not contiguous but are quite distant from each other. To provide municipal calling in Durham for all customers on a flat-rate BSCA basis (i.e., as part of the Economy option), it would be necessary, for example, to add the Freeport and Brunswick exchanges to the Lewiston BSCA and to add the Lewiston exchange to the BSCAs for Freeport and Brunswick.

each of the exchanges live in the same municipality. As discussed above, the Rule requires that all customers receive Municipal Calling, regardless of which calling option they choose. If calls to all areas in these additional exchanges were included in the flat rate (rather than just those portions that are in the same municipality), it would be necessary to include all of each of these exchanges in the Economy option.

It follows that the revised method would not address the third problem described above – the need to provide a municipal code for each phone number and the inevitable mistakes that occur in such exercises. To eliminate the need for municipal codes, it would be necessary to include in the BSCA the whole of every other exchange that serves any portion of the same municipality – the alternative we have rejected above. For the reasons explained above, we believe the benefits of eliminating the need to provide municipal coding by that means would be far outweighed by the revenue losses. We seek comment on the extent of the municipal coding problem and whether there are other possible methods of reducing it.

We also seek comment as to whether the other two problems discussed above (customers who presubscribe to non-ILEC IXCs and the access payment problems) are substantial and need to be remedied, whether the revised method would eliminate or reduce these problems, and whether there are disadvantages to the revised method that would outweigh its advantages.

H. School Administrative Units

A number of commenters in the NOI stated that calling within the SAU for their community should be local because toll calls make it difficult for parents to communicate with the schools that their children attend. In addition, students who attend the same school often communicate with each other on scholastic and social matters.

As discussed above, the definition of the Premium Plus calling option in the propose rule does not include other exchanges that provide service to areas within the School Administrative Unit(s) (SAUs) that provide(s) schooling within a home exchange. We have proposed to add SAUs as a factor to be considered in the "community of interest" standards in the petition process in Section 6. Under that process, we would address SAUs on a case-by-case basis. We also note that the proposed Premium Plus option will add some exchanges that include SAU areas because the proposed definition includes contiguous exchanges. Thus, the issue of whether to add exchanges that provide service in the same SAU is of a somewhat lesser dimension than may first appear. Nevertheless, there are a number of SAUs in the state that include many towns and exchanges, and many of those exchanges are not contiguous. We therefore seek comment on whether SAUs should be included in the Premium Plus Option, or as a separate option, or handled on a case-by-case basis as contained in the proposed Rule.

We see at least one significant potential difficulty with a definition of Premium Plus that includes SAUs. In some exchanges, there may be multiple SAUs because the exchange serves more than one municipality and those municipalities may each belong to a different SAU. We are aware of one exchange in which all or portions of three different school systems provide schooling.[11] As discussed above in connection with municipal calling, we are concerned about the large size of BSCAs that would result if we included all of each exchange that serves any part of a municipality in the BSCA. SAUs are definitionally much larger than municipalities, and, at least in exchanges where there are multiple SAUs, the result could be extremely large BSCAs. We request commenters to provide information about whether the problem we have described above is widespread.

We also request commenters to address three alternatives that may reduce the likelihood of extremely large BSCAs. First, the definition could state that if the addition of only one or two exchanges would allow a BSCA to include all of an SAU, those one or two exchanges should be added. Second, the definition could state that only the SAU that was predominant (or that serving some stated percentage of lines) in the home exchange would be included in the BSCA. If commenters advocate inclusion of only the predominant SAU, they should address how calls made by

[11] The Washington exchange provides telephone service in all or parts of the municipalities of Washington, Liberty, Union, and Appleton. Appleton has its own separate school department. Washington and Union are in MSAD 40 and Liberty is in MSAD 3. To include all of the exchanges that provide telephone service in all of the municipalities that are members of both MSADs, the BSCA for the Washington exchange would need to include 12 exchanges, seven of which are not contiguous.

customers living outside the area covered by that SAU should be rated. Finally, we request comment on whether we should consider requiring a separate SAU option, at least where including the SAU (or SAUs) would result in the addition of more than two exchanges to the BSCA as defined by the Premium Plus option.

We note that such a "special" option raises a more general question concerning whether it is possible or desirable to have options that do not always include all exchanges included in the flat-rate portion of "lesser" options. Thus, for example, would it be possible to offer all contiguous exchanges in one option and the whole SAU in another, even though the SAU option would not include all contiguous exchanges, and the contiguous option would not include all of the SAU(s)? As in the case of the three options (Economy, Premium and Premium Plus) contained in the proposed rule, all of these exchanges would, of course, be included in the BSCA, but the price to exchanges not included in the flat-rate portion of the particular option would be a per-minute rate. Our first question is whether ILEC billing systems could accommodate such overlapping options. Our second question is whether such options would be reasonably understandable to customers.

I. Contiguous Exchanges; "Skipped-Over" Exchanges

As discussed above, the inability to call adjacent exchanges on a toll-free basis is perceived by many customers, particularly those who live near exchange boundaries, to be a problem. We have proposed to include unlimited calling to contiguous exchanges under a flat-rate in the definition of the Premium Plus Option.

We request comment on whether contiguous exchanges should be included under a flat-rate in the Premium Plus Option (as contained in the proposed rule), in the Premium option, or in a separate option. One reason we have proposed to include contiguous exchanges in the Premium Plus option is to leave the Premium option unchanged, thereby simplifying choices for customers. A second reason is that interest in contiguous exchanges that have not been included in a BSCA by this date tends to be small. Calling volumes to those exchanges have not met the present calling volume requirements of the rule, and often fall far short. Inclusion of contiguous exchanges in a lesser option might therefore require a larger body of customers to pay for calling they do not want. On the other hand, in the Inquiry, there was widespread interest in contiguous exchanges, perhaps indicating a relatively higher aggregated interest of smaller "split" interests or that commenters perceived that the inclusion of contiguous exchanges would solve a variety of other community of interest concerns.

As is the case with SAUs, we seek comment on whether it would make sense to include contiguous exchanges in the Premium option if it were necessary to add only one or two exchanges to provide all contiguous exchanges, and to include contiguous exchanges in the Premium Plus option if it is necessary to add more than two. We also seek comment on whether providing BSCA calling to contiguous exchanges, as a separate option is feasible or desirable. See discussion in Part III(G).

A further question is whether such a separate contiguous option should be available with any of the “base” options (Economy or Premium) or whether subscribers to a contiguous option should be required to subscribe to one of the “higher” options.

Finally, we seek comment on whether to add so-called “skipped-over” exchanges to any option. (In the proposed rule they are included in the Premium Plus option; section 2 also contains a definition in the event that we include these exchanges in an option.) A “skipped-over” exchange is one that is not included in the BSCA of the home exchange, but lies between the home exchange and some other exchange that is included in the BSCA. Generally, the exchange that is part of the BSCA contains a service center. The skipped-over exchange may lie on a transportation corridor between the home exchange and the service center. Based on historic calling volumes, there has been a demonstrated need for calling to the service center, but not to the skipped-over exchange. Many skipped-over exchanges are contiguous to the home exchange and will be included in the BSCA if we include contiguous exchanges. We are aware of non-contiguous skipped-over exchanges in the Portland, Rockland-Camden and Bangor areas. We seek comment on whether there is substantial legitimate interest in calling these non-contiguous skipped-over exchanges (as opposed to an appeal to a sense of orderliness), and whether we should include skipped-over exchanges in the Premium Plus option.

J. Section 6: Request for Changes to BSCA and Calling Options

Section 6, formerly Section VIII, is now designated “Requests for Changes to BSCAs and Calling Options” to better indicate what customers and LECs will actually be requesting. The individual sections, with proposed modifications, remain as in the current version of the rule, Section VIII. Instead of requesting “waivers” of the rule, customers and LECs are actually asking the Commission to modify the BSCA or available options for a particular home exchange. Since the proposed rule no longer contains periodic calling volume analysis with automatic BSCA increases, the need for a “waiver” of those thresholds is not necessary. LECs may request the Commission to modify the BSCA or available calling options for an exchange and must propose a reasonable alternative to the options required by the Rule that is consistent with the purposes of the Rule.

Customers continue to have two methods for requesting a modification to their BSCA. Under the present Rule, the customer threshold for requesting a waiver in exchanges other than in “single-exchange” BSCAs is 30% or 1,000 customers. We propose to change the threshold for those other exchanges to 50 or more customers, the same threshold that applies in single-exchange BSCAs, as established in the recent change to this Chapter that implemented 35-A M.R.S.A. §7303-A. We also believe that the threshold for customers to bring requests to the Commission does not need to indicate a “community of interest” since we now have clear standards for analyzing the request. We have proposed a number of text changes to reflect the change from "waiver" to "request."

The section describing standards has been moved to its own sub-section (§ 6(C)), now applying to all requests for modification, including those by LECs. Currently the standards apply only to requests by customers.

We have proposed that the Commission, as part of its analysis of a Request under this section, may request that a LEC conduct a study of residential calling volumes to any exchange that customers have requested to be included in a BSCA option. We stated in the Notice of Inquiry that the current method of measuring calling volumes was not providing an accurate picture of the "community of interest." The evidence for this is that in the second 5-year cycle of the rule only four additional BSCA routes were identified. In the Procedural Order issued May 2, 2001, we specifically asked about the calling volume method and thresholds. The OPA stated that the thresholds should be much lower than the current standard. In comments filed on June 1, 2001, Verizon suggested a 2-step alternative method it said was more flexible, somewhat more inclusive and demonstrated a measurable community of interest. Verizon provided an example that identified 54 routes passing the initial step with eight of those passing the second step. We believe that Verizon's proposed method represents an improvement because it avoids an exclusive focus on only higher volume callers (50 percent of customers making four or more calls a month). Instead, it takes into account both average calling volumes and higher volume callers.

We propose to use the calling volume test suggested by Verizon. The test is in two parts: the LEC will first identify initiating (home) exchanges in which customers make at least three calls per month, on average, to a specified receiving exchange; to further qualify, at least 40 percent of the initiating exchange's residential customers must make at least two calls per month to that receiving exchange. If the thresholds are reached, the Commission will grant the request for the change in the BSCA or calling option, unless it finds good cause to deny the request.

Proposed section 6(B)(3)(b) states the community of interest considerations that are now in Part VIII(B)(3) of the present Rule. These considerations will apply in a case that does not meet (or even use) the calling volume standard discussed above. To the existing standard, we propose to add "municipalities and other areas that are included in school administrative units." See the discussion regarding school administrative units in Part III(H) of this Notice.

K. Section 7. Waivers

Finally, we propose a new waiver section that states," The Commission, on its own motion or on the request of any person, may waive any provision of this rule that is not addressed by the provisions of Section 6." This is consistent with the waiver provisions contained in other Commission rules.

IV. PROCEDURES FOR THIS RULEMAKING

This rulemaking will be conducted according to the procedures set forth in 5 M.R.S.A § 8051-8064. A public hearing on the proposed amendments is scheduled for March 5, 2002.

Please notify the Public Utilities Commission if special accommodations are needed in order to make the hearing accessible to you by calling 1-207-287-1396 or TTY 1-800-437-1220. Requests for reasonable accommodations must be received 48 hours before the scheduled event.

Written comments on the proposed amendments to Chapter 204 may be filed with the Administrative Director no later than March 28, 2002. Please refer to the Docket Number of this proceeding, Docket No. 2001-865, when submitting comments.

In accordance with 5 M.R.S.A. § 8057-A(1), the fiscal impact of the amendments is expected to be substantial. It is not expected to impose an economic burden on small businesses. The Commission invites all interested parties to comment on the fiscal impact and all other implications of the proposed amendments. The full text of Chapter 204, the proposed amendments, and this order, may be viewed on the Maine Public Utilities Commission website, http://www.state.me.us/mpuc, under "Commission Proceedings."

Notice of this rulemaking will be provided to the following:

1. All incumbent local exchange carriers in the State of Maine;

2. Competitive local exchange carriers and competitive interexchange carriers that paid the Commission regulatory assessment in 2000;

3. Parties who submitted comments, interested persons, and lead petitioners, in Docket Nos. 2000-752, 2001-488, 2001-758 and 2001-783;

4. The Office of the Public Advocate, State House Station 112, Augusta, Maine, 04333;

5. All people who have filed with the Commission within the past year a written request for any Notice of Rulemaking;

6. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and

7. Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies)

Accordingly, it is

O R D E R E D

1. That the Administrative Director sends notice of this rulemaking to all the persons listed above and compiles a service list of these persons and any additional persons submitting written comments on the proposed amendments.

2. That the Administrative Director send a copy of the Order Commencing Rulemaking to the Secretary of State for publication in accordance with 5 M.R.S.A. § 8053.

3. The Inquiry in Docket Number 2000-752 is closed.

Dated at Augusta, Maine, this 18th day of January 2002.

BY ORDER OF THE COMMISSION

____
Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

APPENDIX A

A. Procedural History of the Inquiry

The Commission received written comments on the initial NOI – which presented nine alternative solutions for consideration – from Verizon-Maine (Verizon), Northland Telephone Company, the Telephone Association of Maine (TAM), TDS Telecom, Mid-Maine Telecommunications, the Office of the Public Advocate (OPA), and numerous individual customer comments – including a "petition" from more than 650 people in the Casco area.

A Technical Conference was held on January 31, 2001. Participants discussed two of the nine alternatives – the flat-selective plan and local calling to contiguous and near-contiguous exchanges. Verizon, TAM, TDS Telecom, the OPA, Pine Tree Telephone Company, and representatives from the Senior Spectrum, the Manchester area and the Mt. Vernon area attended the Technical Conference.

A Procedural Order issued on May 3, 2001, asking for further comment on one of the alternatives – local calling to contiguous and near-contiguous exchanges. As stated in the Procedural Order, this alternative was one of the solutions favored by customers and could be one of the more viable solutions to calling area concerns. Verizon, TAM, Unitel, the OPA, Shelly King (Montville), Tenley Kent (Mt. Vernon), and the Town of Solon filed written comments.

B. Discussion of Comments Filed in the Inquiry

Initial comments filed in the Inquiry by the incumbent local exchange carriers (ILECs) and TAM all stated that no Commission action – i.e., changing the BSCA rule – was warranted. Verizon stated that technology and competition would reduce costs to consumers, eliminating the need for rule revisions. Northland did not support an expansion of BSCAs and TAM recommended that the Commission carefully weigh the costs and benefits of making changes to BSCA policy.

The OPA, however, strongly supported a new, statewide BSCA policy, stating that many calling area inequities remained. The OPA advocated minimum calling areas that include all adjacent exchanges. The OPA opposed the "flat-selective" option and any block-of-time plans. In addition, the Commission received comments from several towns, legislators, and numerous telephone customers. The flat-selective and contiguous exchange alternatives were the most supported changes. More than 700 customers in the Casco and Palermo areas favored the contiguous alternative.

At the Technical Conference, held on January 31, 2001, the ILECs stated that the "flat-selective" plan was not feasible because billing systems will not allow calls to terminating exchanges to be billed on a flat-rated local basis for some customers and measured toll rates for other customers. They further claimed that the compensation mechanism among the ILECs would not allow calls to be either flat or measured, depending on what a customer chose for the flat-selective route. In written comments filed before the conference, Verizon stated that the proposal would "significantly impact carrier revenues and expenses and would be exceedingly complex to implement and administer." Verizon also stated that the Commission should consider adding all contiguous exchanges to every exchange's BSCA under the mechanisms of the present rule.

Comments received following the May 3, 2001, Procedural Order focused on the contiguous and near-contiguous alternative. Verizon proposed that we should change the requirement studying the calling volumes of all non-BSCA routes from every five years to every three years. It is also suggested an alternative calling volume standard to replace the current standard of 50% of the residential customers of one exchange make four or more toll calls. Verizon also provided an estimated financial impact of expanding local calling to include home and contiguous exchanges. The estimate included net revenue decreases, capital costs, and notification costs. Verizon did not, however, suggest a specific rate design for the recovery of those costs and lost revenues other that to suggest that the bulk of those costs and lost revenues should be recovered from all subscribers.

TAM continued to question the need for revisions to the BSCA rule and argued that it would be better to examine problem areas on a case-by-case basis. TAM also stated, however, that if changes are made, the home and contiguous plan seemed to have the most benefits and that it should replace any existing economy plans. OPA stated that the rule should establish a minimum calling standard for all calling areas that includes both contiguous exchanges and at least one significant community of interest. Shelly King of Montville said that adding contiguous exchanges would not solve her problems and would prefer flat-selective to Belfast, Waterville, or Augusta. Tenley Kent of Mt. Vernon said that including contiguous and near-contiguous exchanges is a good idea and that calling areas should be aligned with school districts. The Town of Solon requested that, at a minimum, each town should be able to call the towns that border it and the towns within their school district. Liz Tonge of Rome stated that adding the contiguous exchanges of Oakland and Belgrade to Rome's calling area would facilitate improved communications between schools and families.